

CHAPTER 10

CIVIL DEFENSE AND EMERGENCIES

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ARTICLE I. IN GENERAL

*Editor's- Note Ord. No. 76 77, Secs. 1 12, adopted Dec. 20, 1976, is included herein as superseding former Art. I, Secs 10-1- 10 13, relative to the municipal civil defense organization, derived from Code 1965, Sec. 4.17.

Sec. 10 01. Establishment of ESDA; composition.

There is hereby created the Kankakee City ESDA to prevent, minimize, repair, and alleviate injury or damage resulting from disaster caused by enemy attack, sabotage, or other hostile action, or from natural or man made disaster, in accordance with "The Illinois Emergency Services and Disaster Act of 1975".

This ESDA shall consist of the coordinator and such additional members as may be selected by the coordinator. (Ord. No. 76 77, Sec. 1, 12 20 76)

Sec. 10 02. Appointment, general duties of coordinator; inability of coordinator to serve.

The coordinator of the Kankakee City ESDA shall be appointed by the Mayor and shall serve until removed by same.

The coordinator shall have direct responsibility for the organization, administration, training, and operation of the ESDA, subject to the direction and control of the Mayor as provided by statute.

In the event of the absence, resignation, death or inability to serve as the coordinator, the Mayor or any person designated by him, shall be and act as coordinator until a new appointment is made as provided in this article. (Ord. No. 76 77, Sec. 2, 12 20 76)

Sec. 10 03. General functions of ESDA.

The Kankakee City ESDA shall perform such ESDA functions within the City as shall be prescribed in and by the state ESDA plan and program prepared by the governor, and such orders, rules and regulations as may be promulgated by the governor, and in addition shall perform such duties outside the corporate limits as may be required pursuant to any mutual aid agreement with any other political subdivision, municipality, or quasi municipality entered into as provided in the State ESDA Act of 1975. (Ord. No. 76 77, Sec. 12 20-76)

Sec. 10 04. Service as mobile support team.

All or any members of the Kankakee City ESDA organization may be designated as members of a mobile support team created by the director of the state ESDA as provided by law.

The leader of such mobile support team shall be designated by the coordinator of the Kankakee City ESDA organization. Any member of a mobile support team who is a City employee or officer while serving on call to duty by the Governor, or the state director, shall receive the compensation and have the powers, duties, rights, and immunities incident to such employment or office. Any such member who is not a paid officer or employee of the City, while so serving, shall receive from the state reasonable compensation as provided by law. (Ord. No. 76 7, Sec. 4, 12 20 76)

Sec. 10 05. Agreements with other political subdivisions.

The coordinator of ESDA may negotiate mutual aid agreements with other cities or political subdivisions of the state, but no such agreement shall be effective until it has been approved by the Mayor and by the state director of ESDA. (Ord. No. 76 77, Sec. 6, 12 20 76)

Sec. 10 06. Emergency action.

If the governor proclaims that a disaster emergency exists in the event of actual enemy attack upon the United States or the occurrence within the State of Illinois of a major disaster resulting from enemy sabotage or other hostile action, or from man made or natural disaster, it shall be the duty of the Kankakee City ESDA to cooperate fully with the state ESDA and with the governor in the exercise of emergency powers as provided by law. (Ord. No. 78 77, Sec. 6, 12 20 76)

Sec. 10 07. Compensation of ESDA members.

Members of the ESDA who are paid employees or officers of the City, if called for training by the state director of ESDA, shall receive for the time spent in such training the same rate of pay as is attached to the position held; members who are not such City employees or officers shall receive for such training time such compensation as may be established by the Mayor. (Ord. No. 76 77, Sec. 7, 12 20 76)

Sec. 10 08. Reimbursement by state.

The state treasurer may receive and allocate to the appropriate fund, any reimbursement by the state to the City for expenses incident to training members of the ESDA as prescribed by the state director of ESDA, compensation for services and expenses of members of a mobile support team while serving outside the City in response to a call by the Governor or State Director of ESDA, as provided by law, and any other reimbursement made by the state incident to ESDA activities as provided by law. (Ord. No. 76 77, Sec. 8, 12 20 76)

Sec. 10 09. Purchases and expenditures.

The Mayor may, on recommendation of the City Coordinator of ESDA, authorize any purchase of contracts necessary to place the City in a position to combat effectively any disaster resulting from the explosion of any nuclear or other bomb or missile, and to protect the public health and safety, protect property, and provide emergency assistance to victims in the case of such disaster, or from man made or natural disaster.

In the event of enemy caused or other disaster, the City Coordinator of ESDA is authorized, on behalf of the City, to procure such services, supplies, equipment or material as may be necessary for such purposes, in view of the exigency without regard to the statutory procedures or formalities normally prescribed by law pertaining to City contracts or obligations, as authorized by the State ESDA Act of 1975, provided that if the Mayor meets at such time as he shall act subject to the directions and restrictions imposed by that body. (Ord. No. 76-77, Sec. 9, 12 20 76)

Sec. 10 10. Oath of ESDA members.

Every person appointed to serve in any capacity in the Kankakee City ESDA organization shall, before entering upon his duties, subscribe to the following oath, which shall be filed with the coordinator:

"I.....do solemnly swear (or affirm) that I will support and defend and bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of Illinois, and the territory, institutions, and facilities thereof, both public and private, against all enemies, foreign and domestic; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I nor have I been a member of any political party or organization that advocated the overthrow of the government of the United States or of this State by force or violence; and that during such time as I am affiliated with the Kankakee City ESDA organization, I will not advocate nor become a member of any political party or organization that advocates the overthrow of the

government of the United States or of this state by force or violence." (Ord. No. 76-77, Sec. 10, 12 20 76)

Sec. 10 11. Office space for ESDA.

The Mayor is authorized to designate space in a City building, or elsewhere, as may be provided for by the Mayor for the Kankakee City ESDA as its office. (Ord. No. 76-77, Sec. 11, 12 20 77)

Sec. 10 12. Appropriation; levy of taxes for ESDA purposes.

The Mayor may make an appropriation for ESDA purposes in the manner provided by law, and may levy in addition for ESDA purposes only, a tax not to exceed five cents (\$0.05) per one hundred dollars (\$100.00) of the assessed value of all taxable property in addition to all other taxes, as provided by the State ESDA Act of 1976; however, that amount collectable under such levy shall in no event exceed twenty five cents (\$0.25) per capita. (Ord. No. 76 77, Sec. 12, 12 20 76)

Sec. 10 13 10 23. Reserved.

ARTICLE II. "LOCAL STATE OF EMERGENCY"

Sec. 10 24. Definitions.

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

- a) Emergency: (1) A riot of unlawful assembly characterized by the use of actual force or violence or any threat to use force if accompanied by immediate power to execute by three or more persons acting together without authority of law; or (2) Any natural disaster, epidemic, or manmade calamity, including outbreak of disease, flood, conflagration, cyclone, tornado, earthquake or explosion, or eminent threat of any of those events within the corporate limits of the City, resulting in or threatening the death or injury of persons or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.
- b) Curfew: a prohibition against any person walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits of the City except officials of any governmental unit and persons officially designated to duty with reference to said civil emergency.

Sec. 10 25. Declaration.

Whenever an emergency, as defined in subsection (a) of this section exists, the Mayor is authorized to declare the existence of a Local State of Emergency by means of a written declaration of the Mayor, under oath, setting forth the facts which constitute the emergency, describing the nature of the emergency and declaring that a Local State of Emergency exists in accordance with the definitions set forth in this section. This declaration must be filed with the municipal clerk as soon as practicable after issuance.

Sec. 10 26. Curfew authorized.

After proclamation of a Local State of Emergency by the Mayor, he or she may order a general curfew applicable to such geographical areas of the City or to the City as a whole, as he or she deems reasonable and advisable, and applicable during such hours of the day or night as he or she deems necessary in the interest of the public safety and welfare.

Sec. 10 27. Orders authorized.

After the proclamation of a Local State of Emergency, the Mayor may also, in the interest of public safety and welfare, and to address this issue caused threatened by emergency, make take any and all of the following actions by executive order during the state of emergency:

- 1) All actions reasonably necessary to respond to the emergency; and
- 2) Approve previously appropriated expenditures of the City for the purpose of continuing the operations of the municipality; and
- 3) In the event the Local State of Emergency extends beyond the current fiscal year and a new budget has not been approved, the City Mayor shall be authorized to approve new spending by the City during the existence of the Local State of Emergency; and
- 4) Order the closing of all retail liquor stores, including taverns and private clubs or portions thereof wherein the consumption of intoxicating liquor and beer is permitted; and
- 5) Order the discontinuance of the sale of alcoholic liquor by any wholesaler or retailer; and
- 6) Order the discontinuance of selling, distributing or giving away gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixes to a motor vehicle; and
- 7) Order the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunition of any character whatsoever; and
- 8) Issue such other orders as are imminently necessary for the protection of life and property.
- 9) Any expenditures approved by the Mayor during the existence of a local state of emergency shall appear on the Accounts Payable/Warrants, presented at the next City Council meeting. (Ord. 2020-49, 4/20/2020)

Sec. 10 28. Duration.

The declaration herein authorized shall be effective until the adjournment of the next regular or special meeting of the City Council, whichever comes first, unless sooner terminated by a proclamation of the Mayor, or, his or her interim emergency successor, indicating that the civil emergency no longer exists. The Mayor or his or her interim emergency successor, shall have the power to re-proclaim the existence of an emergency on the 15th and 31st (or 30th) of each month, during the time said emergency exists.

Sec. 10 29. Notice.

Upon issuing the Declaration herein authorized, the municipal clerk shall notify the news media situated within the City, and shall cause at least four copies of the proclamation declaring the existence of the emergency and any curfew to be posted at the following places within the City: the City Hall, the police station, the post office, and in the area of any curfew.

Sec. 10 30. Violations.

Any person violating the provisions of this article or executive order issued pursuant thereto shall be guilty of an offense against the City.

Any person who violates the Ordinance shall be fined a minimum of One Hundred (\$ 100.00) and not more than Seven Hundred Fifty Dollars (\$750.00). Said fine and penalty may be invoked so as provided in this Code.

Sec. 10 31. Effect on Other Ordinances.

Nothing contained in this section shall be construed to impair the powers contained in this Code, giving power to the police and fire departments, but shall be construed together with existing ordinance now in effect for the safety and welfare of the citizens of the City.

ARTICLE III

EFFECTIVE DATE. This Ordinance shall be in full force and effect on March 24, 2020.

ARTICLE IV

REPEAL OF CONFLICTING PROVISIONS. All ordinances and resolutions, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of the conflict, expressly repealed on the effective date of this Ordinance.

ARTICLE V

SEVERABILITY. If any provisions of this Ordinance or application thereof to any person or circumstances if ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application of provision, and each invalid provisions or invalid application of this Ordinance if severable. (Ord. 2020-45, 4/6/2020)

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